

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:17-cv-00854-TDS-LPA

REBECCA KOVALICH and SUZANNE)
NAGELSKI,)
)
Plaintiffs,)
v.)
)
PREFERRED PAIN MANAGEMENT &)
SPINE CARE, P.A., DR. DAVID SPIVEY,)
individually, and SHERRY SPIVEY,)
individually.)
)
Defendants.)

**PLAINTIFFS' UNOPPOSED MOTION TO AMEND
CASE MANAGEMENT ORDER**

NOW COMES Plaintiffs Rebecca Kovalich and Suzanne Nagelski, by and through undersigned counsel, and move this Court to extend the current discovery deadline. Discovery is currently set to close in this case on August 1, 2018, with trial scheduled for the week of July 8, 2019. Plaintiffs request a 30-day extension of the current discovery deadline, meaning that discovery will close on August 31, 2018.

The Parties have exchanged extensive written discovery and depositions are already underway. This case involves voluminous written discovery. Reviewing these documents has been extremely time consuming, and Plaintiffs needs more time to work through the productions and conduct depositions. The Parties are currently set to mediate this matter on July 6, 2018, with Ken Carlson as mediator, and that mediation will proceed as scheduled.

On June 19, 2018, Plaintiffs' counsel prevailed at summary judgment in *Carlita Ramos v. Carolina Motor Club, Inc. d/b/a AAA Carolinas* (17-CV-212), which is in the Western District of North Carolina before Judge Conrad. The trial was set to begin July 9, 2018, but, due to the quick turn around for trial from the summary judgment ruling and other related reasons, on June 20, 2018, Judge Conrad moved the trial to the week of July 30, 2018. Plaintiffs' counsel will play a significant role in trying this case, and the preparation will be extensive. This trial should take the entire week of July 30, 2018, if not longer.

Moreover, *Anne Gannon v. Champion Residential Services, Inc. d/b/a Morris Jenkins* (16-CV-0756-RJC-DSC), which is also Plaintiffs' counsel's case in the Western District of North Carolina before Judge Conrad, is set to go to trial in the term beginning September 4, 2018, and, if it is tried as scheduled, it will last at least one week. Defendant's counsel in this case did not move for summary judgment. Thus—barring resolution—this case will also be tried and will require extensive preparation from Plaintiffs' counsel.

On June 21, 2018, the Parties jointly moved to extend the discovery deadline by 120 days. The Court denied that motion the following day, noting that 120 days could, in fact, impact the July 2019 trial date. The Court further noted that the given grounds were insufficient for such an extension.

Since the Court's June 22, 2018, Text Order, Plaintiff received discovery responses from Defendants Dr. David Spivey and Sherry Spivey on Plaintiffs' Second Set of Discovery Requests. On April 27, 2018, Plaintiffs sent those requests, and Plaintiffs subsequently agreed to a 30-day response extension. Then, on June 27, 2018, Defendants Dr. and Sherry Spivey sent their responses to these requests, but provided only objections to the Interrogatories and

produced no documents. With the request for a 30-day extension, Plaintiff did not anticipate such a response and will now need to engage in the meet and confer process with Defendants.

Also, following the Court's June 22 Text Order, Plaintiffs received documents from Defendants that they had subpoenaed from various medical providers. Those documents that arrived at Plaintiffs' counsel's office on June 26, 2018 (an earlier batch arrived on June 15, 2018), are extensive, and require additional time to review.

This request for extension of time will not affect the current trial date, which is not until July 8, 2019. This Motion is made in good faith, for good cause, and not for the purpose of delay. Plaintiffs require additional time to complete discovery in this matter in order to present the Court with a complete record on which the Court can render its judgment. Defendants joined in the previous Motion to extend the discovery deadline by 120 days. For this Motion, Plaintiffs consulted with Defendants and Defendants do not object to it. A copy of the Proposed Order granting this motion is being submitted with this motion.

WHEREFORE, Plaintiffs Rebecca Kovalich and Susanne Nagelski hereby request that the Court issue an Order extending the discovery deadline by 30 days, up to and including August 31, 2018.

Respectfully submitted this 2nd day of July, 2018.

/s/ Sean F. Herrmann
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CERTIFICATE OF SERVICE

THE UNDERSIGNED HEREBY CERTIFIES that the document to which this certificate is attached was served upon each party to this action by e-mail and by CM/ECF electronic notification to the attorney of record for each party, or to the party, at their last known address, as stated below.

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This the 2nd day of July, 2018.

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